

Critical phases and statutes applicable to:

## Division of Correction

*9 Total Citations*

**A victim of crime shall be treated by agents of the State with dignity, respect and sensitivity during all phases of the criminal justice process**

**Constitution of Maryland, Declaration of Rights, Article 47(a)**

### Definitions

*1 Specific Statutory Provision*

#### **Sexual Assault/Prohibited Exposure**

- *Definition of victim as it relates to HIV exposure/testing*

Criminal Procedure Article, § 11-107(f) & (g)

- (f) (1) "Victim" means the victim of a prohibited exposure.
- (2) "Victim" includes:
  - (i) a law enforcement officer who is exposed to HIV while acting in the performance of duty; and
  - (ii) a paid or volunteer firefighter, an emergency medical technician, or rescue squad member who is exposed to HIV while acting in the performance of duty.
  - (iii) a forensic scientist, working under the direction of a law enforcement agency, who is exposed to HIV while acting in the performance of duty
- (g) "Victim's representative" means:
  - (1) the parent of a victim who is a minor;
  - (2) the legal guardian of a victim; or
  - (3) the person authorized to give consent for the victim under § 5-605 of the Health-General Article.

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

*5 Specific Statutory Provisions*

**Fair Treatment**

- *Guidelines - Definition of victim as it relates to fair treatment*  
Criminal Procedure Article, § 11-1001(e)  
(e) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as a result of a crime.
-

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

## **Notification**

- *Advance notice of release, escape, transfer, death of child respondent*

Criminal Procedure Article, § 11-508

- (a) (1) In this section the following words have the meanings indicated.
- (2) "Commitment unit" means a unit that a court orders to retain custody of a defendant or a child respondent and that receives a notification request form under § 11-104(f)(1) or (g) of this title.
- (3) "Release from confinement" means work release, home detention, or other administrative or statutorily authorized release of a defendant or child respondent from a confinement facility.
- (4) "Witness" means a person who:
- (i) knows of facts relating to a crime of violence or conspiracy or solicitation to commit a crime of violence; and
- (ii) 1. makes a declaration under oath that is received as evidence for any purpose; or  
2. has been served with a subpoena issued under the authority of a court of this or any other state or of the United States.
- (b) This section applies to a victim or victim's representative who has submitted a notification request form under § 11-104 of this title.
- (c) This section applies if a witness requests in writing that a commitment unit notify the witness in writing of the release from confinement of a defendant or child respondent.
- (d) On receipt of a notification request form under § 11-104(f)(1) or (g) of this title or a written request from a witness for notification, a commitment unit, if practicable, shall notify the victim, victim's representative, or witness of:
- (1) receipt of the notification request form;
- (2) the date when the defendant or child respondent was placed in the custody of the commitment unit;
- (3) how to change the address to receive notice for the victim, victim's representative, witness, or the person to receive notice for the victim; and
- (4) how to elect not to receive future notices.
- (e) The commitment unit shall notify a victim, victim's representative, or witness, in advance if practicable, if any of the following events occur concerning the defendant or child respondent:
- (1) an escape;
- (2) a recapture;
- (3) a transfer to another commitment unit;
- (4) a release from confinement and any conditions attached to the release; and
- (5) the death of the defendant or child respondent.
- (f) A commitment unit may not disclose to a defendant or child respondent the address or telephone number of a witness, victim, victim's representative, or person who receives notice for the victim.
- (g) An elected public official, public employee, or public unit has the immunity described in §§ 5-302 and 5-522 of the Courts Article regarding civil liability for damages arising out of an action relating to this section, unless the official, employee, or unit acts with gross negligence or in bad faith.

## **Privacy**

- *Non-disclosure of victim/witness address and phone number*

Criminal Procedure Article, § 11-508(f)

- (f) A commitment unit may not disclose to a defendant or child respondent the address or telephone number of a witness, victim, victim's representative, or person who receives notice for the victim.

***The statutes below generally apply to all critical phases and should be considered throughout the entire Criminal Justice process.***

## **Privacy**

## **Miscellaneous**

- *Receive help, care and support provided by the State*

Criminal Procedure Article, § 11-802

(a) The General Assembly finds:

- (1) that many innocent persons suffer personal physical or psychological injury or die because of crimes or delinquent acts or in their efforts to prevent them or apprehend persons committing or attempting to commit them;
- (2) that these persons or their dependents may as a result suffer disability, incur financial hardships, or become reliant on public assistance; and
- (3) that there is a need for government financial assistance for these victims.

(b) The policy of the State is that help, care, and support be provided by the State, as a matter of moral responsibility, for these victims.

- *Applicability of guidelines*

Courts and Judicial Proceedings Article, § 3-8A-34

The guidelines provided under § 11-1003 of the Criminal Procedure Article apply to victims and witnesses of delinquent acts.

***In order to preserve and protect a victim's right to justice, each victim of a crime shall have the rights outlined below during critical stages of the criminal justice process***

**Post-conviction/Post-disposition**

*3 Specific Statutory Provisions*

**Monetary Damages -- Restitution**

- *Priority of payment when inmate is in work release program*

Correctional Services Article, § 3-804

- (a) An inmate who is employed in the community under a work-release plan shall surrender to the Division the inmate's total earnings less any payroll deductions required by law.
- (b) (1) The Division shall deduct from the inmate's earnings in the following order of priority:
  - (i) an amount the Division determines to be the cost to the State of providing food, lodging, and clothing for the inmate;
  - (ii) fees assessed under § 2-118 of this article;
  - (iii) the actual and necessary food, travel, and other expenses of the inmate when released from actual confinement under the work-release program;
  - (iv) subject to paragraph (3) of this subsection, any amount that the inmate is legally obligated to pay to support the inmate's dependents; and
  - (v) the amount that a court orders to be paid as restitution.
- (2) Any balance that remains after the deductions are made under subsection (a) of this section shall be:
  - (i) credited to the inmate's account; and
  - (ii) paid to the inmate on release.
- (3) Any amount deducted under paragraph (1)(iv) of this subsection shall be paid to an inmate's dependents through the local social services administration in the county in which the dependents reside.
- (c) If any part of the inmate's final earnings under a work-release plan are required to satisfy the obligatory deductions set forth in subsection (b) of this section, the balance of those earnings shall be forwarded to the inmate within 15 days after the inmate's release from the Division's jurisdiction.

- *Receive restitution from proceeds of civil litigation filed by inmate*

Courts and Judicial Proceedings Article, § 5-1006

- (a) (1) Any compensatory or punitive damages awarded to a prisoner in connection with a civil action shall be paid directly to satisfy any outstanding restitution order or child support order pending against the prisoner.
- (2) If there are multiple orders of restitution or child support pending against the prisoner, any compensatory damages shall be distributed against those orders on a pro rata basis.
- (3) (i) The State, the Department, and the Division of Correction may not be liable for any failure to credit an award as provided in this section.
- (ii) The State, the Department, the Division of Correction, and any county or municipality, through any authorized employee or official, may reclaim any money erroneously credited to a prisoner without judicial action in order to comply with this section.
- (b) If a prisoner is awarded compensatory or punitive damages for a civil action, the prisoner's custodian shall notify, in writing, the victim or victims of the crime for which the prisoner is incarcerated and the recipient or recipients of any child support obligation for which the prisoner is responsible.

---

**Post-conviction/Post-disposition**

---

**Notification**

- *Receive advanced notice of release, escape, transfer, death; Notice of issuance of warrant/subpoena for offender*  
Correctional Services Article, § 7-505
    - (a) At least 60 days before the day that an inmate is scheduled to be released on mandatory supervision, the Division of Parole and Probation and the Division of Correction shall perform the same duties that are performed for a parole release.
    - (b) If an inmate who was convicted of a violent crime is released on mandatory supervision and the victim made a written request for notification under § 7-801(b)(1)(ii) of this title or if the victim or the victim's representative filed a notification request form under § 11-104 of the Criminal Procedure Article, the Department shall notify the victim or victim's representative:
      - (1) if a warrant or subpoena is issued by the Commission for an alleged violation of a condition of mandatory supervision;
      - (2) if the individual has been found guilty or not guilty of violating a condition of mandatory supervision; and
      - (3) of any punishment imposed for the individual's violation of a condition of mandatory supervision.
-